

Remarks

By the foregoing amendment, claim 1 has been amended. Support for the amendment to claim 1 can be found throughout the specification and specifically, for example, in the first full paragraph on pages 6. Applicants respectfully submit that no new matter has been added.

Response to the Office Action**Formal Matters**

Applicants note with appreciation that the Office Action has withdrawn the claim objections and claim rejections in the previous Office Action mailed January 2, 2008 in view of the amendments and remarks presented in the Amendment under 37 C.F.R. § 1.111 filed May 2, 2008.

Art Based Claim Rejections

The Office Action raises the following anticipation and obviousness rejections:

- a) the Action rejects claims 1, 2, and 5 under 35 U.S.C. § 102(b) for allegedly being anticipated by WO 2001/048245 to Shimkets et al.
- b) the Action rejects claims 1 and 2 under 35 U.S.C. § 102(b) for allegedly being anticipated by Nucleic Acids Research, vol. 24, no. 7, pp. 1272-1278 by Sugiyama et al.
- c) the Action rejects claims 1-5 under 35 U.S.C. § 103(a) as allegedly being obvious over Shimkets et al. in view of WO 1998/018810 to Krieg et al.

- d) the Action rejects claims 1-4 under 35 U.S.C. § 103(a) as allegedly being obvious over Sugiyama et al. in view of Krieg et al.

In view of the present amendment to claim 1, Applicants respectfully submit that the cited documents do not anticipate or render obvious the present invention and respectfully request withdrawal of the art-based rejections.

Applicants note that none of the cited documents in the anticipation rejection discloses 6-O-methyl-2'-deoxyguanine as recited in claim 1. Accordingly, Applicants respectfully request withdrawal of the above-listed rejections under 35 U.S.C. § 102(b).

Furthermore, Applicants note that neither Shimkets et al. nor Sugiyama et al., either alone or in combination of these two primary documents with the secondary document Krieg et al., render obvious the presently claimed 6-O-methyl-2'-deoxyguanine in a CpG motif. For example, one difference between the present invention and the cited primary references is that the methylated guanine is an O-methylated derivative, in contrast to the cited documents, which solely disclose N-methylated derivatives. Applicants note that the Office does not present any reason as to why one of ordinary skill would exchange N-methylated guanine derivatives for O-methylated guanines. In the absence of such support, Applicants respectfully submit that there can be no *prima facie* obviousness. Accordingly, for at least the foregoing reason, Applicants respectfully request withdrawal of the obviousness rejections.


Moreover, with respect to the Office's reliance on Krieg et al. as disclosing a pharmaceutical composition, Applicants note that Krieg et al. discloses *unmethylated* CpG with apparent *immunostimulatory* properties and not immunosuppressive properties as described in the present specification. Furthermore, Applicants note that the cytosine-methylated CpG disclosed in Krieg et al. do not show any pharmacological effect. Accordingly, Applicants respectfully submit that Krieg et al. does not provide any reason or motivation for using methylated CpG compound in a pharmaceutical composition. For at least this reason, Applicants respectfully submit that Krieg et al. should not be combined with any of the cited primary documents in the above-listed obviousness rejections.

Conclusion

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections of record, and allow all the pending claims. Applicants respectfully submit that the Action has not presented an anticipation rejection and has not established a *prima facie* case of obviousness in the rejections of claims 1-5.

Should there be any questions, the Examiner is invited to contact the undersigned
at the below listed telephone number.

Respectfully submitted,
Yukio SATO et al.


Bruce H. Bernstein
Reg. No. 29,027 42,920

December 8, 2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191